

THE ECONOMIST
5-11 JULY 1975*The press***Plugging the leaks**

The American press is fighting against a bill, now before the Senate Judiciary committee, which, it claims, could give the government powers to muzzle investigative reporting and the printing of official papers. The criminal justice reform act proposes to rewrite the federal criminal code, a massive task included in which are provisions to plug leaks of government information to the press.

At the moment there is no criminal sanction against a government employee who discloses classified information, other than that specifically concerned with atomic energy or national defence. But the proposed code would make any federal official, newspaper reporter or publisher who leaked classified information subject to criminal prosecution. Such restrictions are seen by the American Society of Newspaper Editors as alien to the nation's freedom-of-the-press tradition. As thousands of bureaucrats are now authorised to declare material classified, the press fears that the new code could allow almost anything embarrassing to the government to be withheld from public scrutiny. Had these provisions been previously applied some journalists argue that a scandal like that started by the Pentagon papers would not have surfaced.

Yet this and other disclosures—not least about the activities of the Central Intelligence Agency—have contributed to the anxiety shared by many in Congress and the Administration that the present federal code is inadequate and unable to shelter genuine state secrets. The new measures would seek to legalise the principle that the government owns government information and can restrict it at will.

The prospects for some measure of control have recently been strengthened by the Supreme Court's non-objection to a lower court decision allowing the CIA heavily to censor a book on the agency by Mr Victor Marchetti. The Fourth Circuit Court of Appeals had previously ruled that the author, by taking an oath of secrecy while employed by the CIA, had waived his rights under the First Amendment to disclose any "classifiable" information about the agency, even if obtained after leaving his job. The press also feels that its freedom has been curtailed by the recent development of judicial gags, requiring that a reporter, on penalty of being held in criminal contempt of court, must obey an order not to publish accounts of open court proceedings or of an accused criminal's prior record in advance of the trial.

The right to print has not, however, been curtailed systematically. Ready access to federal documents, which was once difficult, if not impossible, to obtain, has been secured by the freedom of information act and its subsequent amendments. Any member of the public, requesting government papers, must be given an answer within 10 days of the request being made, and a government refusal to provide the information on the grounds of national security can be challenged in the courts.